

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>	EFFECTIVE DATE 12/01/2004	NUMBER 04.02.105
	SUBJECT PRISONER FUNDS	
	SUPERSEDES 04.02.105 (01/01/02)	
	AUTHORITY 28 USC 1915; MCL 600.2963; 600.5511; 700.3981; 780.766; 791.203; 791.220h; 791.237; 791.268; Administrative Rule 791.6639	
	ACA STANDARDS 3-4045 - 3-4047; 3-4279	
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**POLICY STATEMENT:**

Correctional Facilities Administration (CFA) prisoner institutional accounts shall be handled and monitored as set forth in this policy.

**RELATED POLICIES:**

04.02.107 Collection of Court-Ordered Victim Restitution/Filing Fees and Costs

**POLICY:**

GENERAL INFORMATION

- A. For purposes of this policy, a "family member" is a grandparent, parent, stepparent, spouse, mother-in-law, father-in-law, child, stepchild, grandchild, sibling, stepbrother and stepsister. An aunt and/or uncle also is considered a family member if there is adequate verification that the aunt and/or uncle served as a surrogate parent.
- B. Each prisoner in a CFA institution other than Camp Cassidy Lake shall have an institutional account. Prisoners at Camp Cassidy Lake shall be allowed to send and receive funds only as set forth in PD 06.04.105 "Special Alternative Incarceration Program". Funds credited to an institutional account shall be available to the prisoner for personal use only as set forth in this policy. No other medium of exchange (e.g., stamps) shall be used by prisoners to pay for goods or services.
- C. Prisoners shall not solicit or collect funds from other prisoners except as permitted for fundraising activities pursuant to PD 04.02.110 "Prisoner Benefit Fund".
- D. If funds that may be related to illegal activity are received by a prisoner, the matter shall be referred to the Internal Affairs Division of the Office of Audit, Internal Affairs and Litigation and the appropriate law enforcement agency. Upon request of a law enforcement official and approval of the Warden, notices required to be issued and hearings required to be conducted pursuant to this policy may be delayed for a reasonable length of time to allow for a criminal investigation.
- E. MCL 791.220h and MCL 600.5511 require that all proceeds from a judgment or settlement in a lawsuit by or on behalf of a prisoner against the Department or its employees be used to pay various debts of the prisoner. Prior to authorizing the payment of a judgment or settlement to any prisoner in such a lawsuit, the Manager of the Litigation and FOIA Section of the Office of Audit, Internal Affairs and Litigation or designee shall determine whether the Department has received an order from a court requiring the prisoner to pay restitution, court costs/fees or the cost of incarceration pursuant to the Prison Reimbursement Act, or whether the prisoner has any institutional debt. If the prisoner owes money for any of these reasons, the Manager shall ensure that the funds from the judgment or settlement are distributed to pay the amounts owed in the priority identified in Paragraph S prior to any other disbursement as provided for in MCL 791.220h and MCL 600.5511. If the money is owed pursuant to court order, the Manager shall contact the appropriate court to verify the amount prior to sending the funds to the court. The Manager shall ensure that either the Administrative Officer of the institution at which the prisoner is housed or appropriate Field Operations Administration (FOA) staff are

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notified of any distribution so that Department records are adjusted accordingly.

#### CREDITS TO PRISONER INSTITUTIONAL ACCOUNTS

- F. All funds accompanying a prisoner from jail or when received at a reception facility, transferred from the Michigan Youth Correctional Facility (MYC), earned on a CFA work or school assignment, received for the sale of hobbycraft pursuant to PD 05.03.102 "Resident Hobbycraft Programs", or transferred from another fiduciary account under the control of the Department (e.g., store reimbursement) shall be credited to the prisoner's institutional account. Subject to Paragraphs G, H and J, any other funds received shall be credited to the prisoner's account if in the form of a check issued by a bank with guaranteed funds (e.g., cashier check; certified check) or money order, made payable to the prisoner only. Under no circumstances shall cash be accepted.
- G. Notwithstanding the limitations set forth in Paragraph F, the following shall be credited to a prisoner's institutional account:
  - 1. Government checks payable to the prisoner only. However, a check from the Social Security or Veterans Administration or the Family Independence Agency/Department of Human Services shall be credited only after the agency is contacted and verification is received that the prisoner is legitimately entitled to such benefits. Income tax refund checks do not routinely require verification prior to being credited; however, checks that appear suspicious (e.g., a large refund payable to a prisoner incarcerated during the taxable period) may be verified with the issuing agency prior to being credited.
  - 2. Payroll checks from the prisoner's employer prior to incarceration.
  - 3. Refund checks from a vendor for merchandise ordered by the prisoner through an institution.
- H. Although checks or money orders payable to multiple parties are not to be credited to a prisoner's institutional account, they may be endorsed by the prisoner payee and sent at his/her expense to the other payee, provided the other payee is not a prisoner and the address of the other payee is sufficiently identified.
- I. Funds received in an unauthorized form, including cash, shall be returned to the sender at Department expense with an explanation as to why the funds are being returned. The prisoner also shall be notified that the funds were returned.
- J. Except if for the purchase of hobbycraft pursuant to PD 05.03.102 "Resident Hobbycraft Programs", funds received from any of the following sources shall not be credited:
  - 1. Funds known to be from a Department employee unless the employee is a family member of the prisoner and approval is obtained from both Wardens or, if not a CFA institutional employee, the appropriate supervisor and Warden.
  - 2. Funds known to be from or sent on behalf of another prisoner, parolee or probationer unless the offender is a family member of the prisoner receiving the funds. In such cases, approval must be obtained from both Wardens or, if the offender is not in a CFA institution, the Warden and the Field Operations Administration (FOA) facility Manager/Supervisor or supervising field agent, as appropriate.
  - 3. Funds known to be from a family member of another prisoner, parolee or probationer unless the individual sending the funds is a family member of the prisoner receiving the funds.
  - 4. Funds known to be from a volunteer who is not authorized to send funds to the prisoner pursuant to PD 03.02.105 "Volunteer Services and Programs". The Warden shall be advised if such funds are received.

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5. Funds known to be from an outreach volunteer. The Warden shall be advised if such funds are received.
  6. Funds from an unidentified source (e.g., name of sender not provided, name provided believed not to be that of the sender).
- K. Whenever funds are received which are believed to violate Paragraph J of this policy, a Notice of Package/Mail Rejection (CSJ-316) shall be completed and promptly sent to the prisoner. The Notice shall specify why the funds are believed to be in violation of Paragraph J.
- L. Unless the prisoner waives his/her right to a hearing in writing, and the prisoner and staff agree on the appropriate disposition of the funds, a hearing shall be conducted pursuant to Administrative Rule 791.3310 to determine if the funds violate Paragraph J for the reason(s) identified in the Notice of Package/Mail Rejection. The hearing shall not be conducted by the person who issued the Notice.
- M. If a hearing is conducted, an Administrative Hearing Report (CSJ-144) shall be completed by the hearing officer. If the hearing officer finds that funds were not received in violation of Paragraph J, the funds shall be promptly credited to the prisoner's institutional account in accordance with this policy. If the hearing officer finds that funds were received in violation of Paragraph J, the hearing officer shall determine the appropriate disposition of the funds as set forth below. The hearing officer may take into consideration the prisoner's choice of disposition in making that determination.
- N. Funds found to have been received from an unidentified source shall be placed in the Prisoner Benefit Fund (PBF). Other funds found to be in violation of Paragraph J shall be disposed of by one of the following means, as determined by the hearing officer or as indicated by the prisoner on the Notice of Package/Mail Rejection if a hearing was not required:
1. Returned to the sender at the prisoner's expense. Funds shall not be loaned for this purpose. If the prisoner does not have sufficient funds to pay the required postage after a time period established by the Warden, the funds shall be placed in the PBF; the prisoner shall be notified in writing if this occurs.
  2. Mailed at the prisoner's expense to a person designated by the prisoner, except that the funds shall not be sent to another prisoner, a court, an identified public official, or a Department employee unless that employee or public official is a family member of the prisoner. Funds shall not be loaned for this purpose. If the prisoner does not have sufficient funds to pay the required postage after a time period established by the Warden, the funds shall be placed in the PBF; the prisoner shall be notified in writing if this occurs.
- O. A prisoner who disagrees with the outcome of the administrative hearing may file a grievance as set forth in PD 03.02.130 "Prisoner/Parolee Grievances".
- P. The Warden may approve a method for funds to be hand-delivered by members of the public to the institution (e.g., drop box) for credit to a prisoner's account, consistent with the requirements set forth in Paragraphs F and J. If approved, the Warden shall ensure that a notice is posted in an area accessible to members of the public advising them how this can be done and any restrictions in place, including those identified in Paragraphs F and J. The notice shall specifically state that cash will not be accepted. Funds received in violation of these requirements shall be returned or, if the address of the source is not sufficiently identified, deposited in the PBF.

#### REMOVAL OF FUNDS FROM PRISONER INSTITUTIONAL ACCOUNTS

- Q. A fact-finding hearing shall be conducted pursuant to Administrative Rule 791.3310 before funds are removed from a prisoner's institutional account, except when due to one or more of the following:

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1. A court order directing the Department to remove the funds from the prisoner's account.
  2. The prisoner's written request.
  3. An order to pay restitution issued by a hearing officer for major or minor misconduct.
- R. Prior to the hearing, a Notice of Intent to Conduct an Administrative Hearing (CSJ-282) shall be completed and promptly sent to the prisoner; the hearing shall not be conducted by the person who issued the notice. The Notice shall specify the reason the funds are to be removed from the account. At the time the Notice is written, a hold may be placed on the funds which are the subject of the hearing. The hearing officer shall record relevant statements by the prisoner on an Administrative Hearing Report, along with the hearing officer's findings. If the hearing officer does not order that the funds be removed from the prisoner's account, any hold placed on the funds which were the subject of the hearing shall be removed. If the hearing officer orders that funds be removed, the funds shall be removed as set forth in Paragraphs S and T.
- S. Funds shall be removed from a prisoner's institutional account to pay his/her debts under the following priority, unless otherwise specifically ordered by a court:
1. To reverse a credit for a check or money order found to be uncollectible (e.g., non-sufficient funds).
  2. Payment of victim restitution as set forth in PD 04.02.107 "Collection of Court-Ordered Victim Restitution/Filing Fees and Costs".
  3. Payment of child support ordered by a court. Funds shall be removed only if the court orders the Department to remove the funds. However, an "order of income withholding" directing the Department to remove funds generally is not sufficient to authorize removal of funds. If there is more than one order of support for which the Department is required to remove funds from a prisoner's account, the funds shall be divided equally between or among the required payments.
  4. Payment of fines, fees, costs, or other assessments pursuant to a court order directing the Department to remove the funds or pursuant to PD 04.02.107 "Collection Of Court-Ordered Victim Restitution/Filing Fees and Costs", or pursuant to the Prison Reimbursement Act. The orders shall be satisfied in chronological order based on the date received in the appropriate business office.
  5. Payment of fees for medical services assessed pursuant to PD 03.04.101 "Prisoner Health Care Copayment", in chronological order.
  6. Payment of all other institutional debts, in chronological order.
- T. All funds received by a prisoner shall be used to satisfy his/her debts as outlined in this policy except under the following circumstances, or as otherwise specifically ordered by a court:
1. It would leave the prisoner with less than \$9 available during the month for personal use. This includes if funds are being removed pursuant to a court order, unless the order requires otherwise.
  2. The funds were loaned or advanced to the prisoner by the Department (e.g., parole loan).
  3. The funds were sent specifically for "release planning" or for payment of medical or education expenses. Such funds shall be used only for that purpose after first satisfying any court-ordered payments (e.g., filing fees and/or costs, victim restitution, the Prison Reimbursement Act).

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4. Only 50% of funds received in excess of \$50 per month shall be removed for payment of restitution, as set forth in PD 04.02.107 "Collection of Court-Ordered Victim Restitution/Filing Fees and Costs".
5. Whenever a prisoner is assessed a fee for medical services pursuant to PD 03.04.101 "Prisoner Health Care Copayment" or incurs another institutional debt, 100% of the prisoner's positive account balance shall be collected initially even if this would leave the prisoner with less than \$9 available during the month for other personal use. Collection on the remaining debt shall be limited to 50% of future funds received for credit to the account unless the prisoner agrees in writing to a larger amount.

#### PRISONER SPENDING

- U. Prisoners shall not be permitted to purchase or order goods or services on a credit or cash-on-deliver (i.e., C.O.D.) basis. Prisoners shall not possess accounts at financial institutions or use credit cards.
- V. Prisoners shall be permitted to spend funds credited to their institutional accounts except for those funds which are subject to a debt or hold pursuant to this policy. Prisoners who are receiving inpatient psychiatric services also may have their spending limited by a qualified mental health professional with appropriate supervisory approval. However, funds may be spent only for the following purposes:
  1. Transfer to family members and to a parent or verified legal guardian of the prisoner's child, stepchild or grandchild. However, if the family member is known to be another prisoner, parolee or probationer, approval must be obtained from both Wardens or, if the offender is not in a CFA institution, the Warden and the FOA facility Manager/Supervisor or supervising field agent, as appropriate. The Warden may authorize the transfer of funds to other individuals for the care of a family member of the prisoner (e.g., child).
  2. Payment of verified personal or legal expenses as approved by the Warden or designee. This includes fines, fees, costs and other assessments imposed by a court. This also includes payment of statutory fees assessed for DNA testing. If the DNA sample was taken by the Department, the payment is to be sent to the Department of Treasury. Other DNA test fees are to be paid to the court that ordered the fee to be paid.
  3. Purchase of personal property, including prisoner store items, in accordance with PD 04.07.112 "Prisoner Personal Property". Up to \$85 may be spent every two weeks (i.e., 26 times per calendar year) for the purchase of standardized store items sold in the prisoner store; an additional \$15 may be spent in the month of December. Funds not spent by the prisoner during the two week period shall not carry over to any subsequent period.
  4. Purchase of U.S. Savings Bonds. Bonds must be made payable to the prisoner only; however, a beneficiary may be designated on the bond. Another offender shall not be designated as a beneficiary unless the offender being designated is a family member of the prisoner to whom the bond is payable. Since prisoners are not allowed to possess savings bonds, bonds must either be sent to a person designated by the prisoner at the prisoner's expense or, if approved by the Warden, stored for the prisoner by the facility until the prisoner transfers, paroled or discharges. If stored, the bonds shall transfer with the prisoner. Savings bonds stored for a prisoner may not be cashed by the prisoner while incarcerated unless s/he is serving a mandatory life sentence and purchased the savings bond(s) prior to the effective date of this policy directive, subject to any federal restrictions.
  5. Contribute to charitable organizations as approved by the Warden or designee.
  6. Purchase of finished hobbycraft items to be sent out of the facility, in accordance with PD 05.03.102 "Resident Hobbycraft Programs".

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7. Purchase of other items or services as approved by the Warden, consistent with Department policy. However, funds shall not be used to join pen pal organizations or purchase pen pal lists, to establish or maintain Internet web sites or to place any advertisement.
- W. Funds shall be loaned to prisoners who lack sufficient funds in their institutional account to purchase any of the following:
1. Replacement identification cards.
  2. Debit cards and padlocks, provided the prisoner agrees to repay the debt at 100% of future funds received by signing a Disbursement Authorization (Prisoner) form (CAR-893).
  3. Postage and writing materials for litigation as set forth in PD 05.03.118 "Prisoner Mail". Funds for writing materials for litigation also shall be loaned to prisoners in any form of segregation other than protective segregation as set forth in PD 05.03.118.
  4. Photocopies of legal documents as set forth in PD 05.03.115 "Law Libraries".
  5. Footlockers for allowable excess legal property unless the prisoner is provided a free footlocker or other fire-resistant container approved by the CFA Deputy Director for this purpose for use at that institution.
- X. A prisoner found at a hearing conducted pursuant to Administrative Rule 791.3310 to have incurred heavy indebtedness to another prisoner, to be the victim of exploitation or extortion by another prisoner, to be using funds or store purchases to exploit or corrupt another prisoner, or to be setting up his/her own "store" for profit may have his/her spending restricted. Prior to the hearing being conducted, the prisoner shall be provided with a Notice of Intent to Conduct an Administrative Hearing specifying the reason why the prisoner's spending should be restricted; the hearing shall not be conducted by the person who issued the Notice. The prisoner's spending may be restricted pending the hearing but, in such cases, the hearing shall be held within 14 business days after the restriction is imposed. The hearing officer shall record relevant statements by the prisoner on an Administrative Hearing Report, along with the hearing officer's findings. The period and nature of any restriction shall be determined by the Warden or designee. The prisoner shall be given credit for any period of time for which the prisoner's spending was restricted pending the hearing.
- Y. The Warden may authorize the use of a debit card by prisoners for the purchase of authorized goods and services. If the debit card is for the purchase of store items, the initial card shall be issued to prisoners free of charge. The Warden may charge a fee for debit cards used for the purchase of other goods and services and for replacement cards. A prisoner shall not possess or use another prisoner's card for any reason. A prisoner possessing or using another prisoner's card, or allowing another prisoner to possess or use his/her debit card, may be subject to discipline in accordance with PD 03.03.105 "Prisoner Discipline".

#### RECORD MAINTENANCE

- Z. The appropriate Administrative Officer shall ensure that accurate records are maintained for funds removed from a prisoner's institutional account. The prisoner shall be provided with a statement of his/her account activity at least quarterly which identifies when and why funds were removed from, and any debts and holds were placed on, the account.

#### RECONCILIATION

- AA. Each Administrative Officer shall ensure the prisoner accounting system reconciles at least monthly with the Michigan Administrative Information Network (MAIN).

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- BB. Reconciliation records shall be retained at the institution in accordance with the Department's Retention and Disposal Schedule.

#### DISPOSITION OF INSTITUTIONAL ACCOUNT UPON TRANSFER OR RELEASE

##### TRANSFER WITHIN CFA

- CC. When a prisoner transfers from one CFA institution to another for any reason other than placement in the Special Alternative Incarceration Program (SAI), the Warden of the sending institution shall ensure the prisoner's institutional account is transferred to the receiving institution within five business days following the prisoner's transfer. Funds received for credit to the account after transfer of the account shall transfer within five business days after receipt. The CFA Deputy Director shall be notified in writing through the appropriate chain of command if funds are not sent within these required time periods. If the transfer is not received within the required time period and the prisoner does not have at least \$9 available for personal use at the receiving facility, s/he shall be loaned up to \$9 to purchase prisoner store items provided s/he has the funds in his/her account to repay the debt and agrees to repay it at 100% by signing a Disbursement Authorization (Prisoner) form (CAR-893).
- DD. The transfer of a prisoner's account shall be expedited upon request of the Warden of the receiving institution or designee when the prisoner needs access to the account to pay court-ordered filing fees in a timely manner. It is the prisoner's responsibility to notify staff sufficiently in advance of when the funds are needed so this can be accomplished.
- EE. When a prisoner transfers to SAI, his/her institutional account shall remain with the sending institution until the prisoner has completed or been terminated from SAI. The Deputy Warden for Camp Cassidy Lake shall ensure the institution is notified of the address to which the funds are to be forwarded.

##### TRANSFER TO NON-CFA FACILITY

- FF. When a prisoner transfers to MYC or another jurisdiction to serve his/her Michigan sentence (e.g., Federal Bureau of Prisons), the funds in the prisoner's account and any subsequent funds received for credit to the account shall be forwarded to that jurisdiction within the time periods set forth in Paragraph CC. If such funds are subsequently returned as undeliverable, an account shall be opened in the prisoner's name to retain the funds for one year; after that time, the funds shall be forwarded to the Unclaimed Property Division of the Department of Treasury.
- GG. When a prisoner transfers to Community Residential Programs (CRP), the funds in the prisoner's account and any subsequent funds received for credit to the account shall be forwarded to the appropriate supervising agent within the time periods set forth in Paragraph CC, unless the instructions provided on the Transfer Order - Community Programs form (CFJ-151) indicate otherwise.

##### PAROLE

##### Parole to Detainer

- HH. When a prisoner paroles to detainer, the funds in his/her institutional account or subsequently received for credit to the account shall be used to satisfy any remaining institutional debts. The balance shall be forwarded to the jurisdiction that filed the detainer within the time periods set forth in Paragraph CC. If the funds are subsequently returned as undeliverable, an account shall be opened in the prisoner's name to retain the funds for one year; after that time, the funds shall be forwarded to the Unclaimed Property Division of the Department of Treasury.

##### All Other Paroles

- II. When a prisoner paroles, the funds in his/her institutional account or subsequently received for credit to the account shall be used to satisfy any remaining institutional debts. This shall be done prior to

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processing a parole loan pursuant to PD 06.02.120 "Parole Loans". The balance remaining in the account after processing any parole loan shall be given to the prisoner; the prisoner shall be given \$75 of that balance, or the entire balance if less than \$75, in cash. If the balance is less than \$15, the Warden or designee shall authorize payment from the institution's CSS&M account for the difference between the balance and \$15 as needed by the prisoner to meet his/her immediate needs upon parole (e.g., meals; telephone calls; additional transportation costs to reach actual home placement). The Warden or designee shall consider the means of transportation and the distance the prisoner must travel in determining the amount provided. The balance of any subsequent funds received for credit to the account shall be forwarded to the supervising agent within the time periods set forth in Paragraph CC after satisfying any remaining institutional debts other than the parole loan. If the funds are subsequently returned as undeliverable, an account shall be opened in the prisoner's name to retain the funds for one year; after that time, the funds shall be forwarded to the Unclaimed Property Division of the Department of Treasury.

#### DISCHARGE

- JJ. When a prisoner discharges, the funds in his/her institutional account or subsequently received for credit to the account shall be used to satisfy any remaining institutional debts. The balance remaining in his/her account shall be given to the prisoner at discharge; the prisoner shall be given \$75 of that balance, or the entire balance if less than \$75, in cash. If the balance is less than \$75, the Warden or designee shall authorize payment from the institution's CSS&M account for the difference between the balance and \$75 if the prisoner has no other visible means of support and the Warden or designee has determined that the prisoner conserved personal funds in a reasonable manner. However, a prisoner discharging to another agency's custody or care (e.g., jail; mental health facility) shall only be given the funds remaining in his/her account. The balance of any subsequent funds received for credit to the account shall be mailed to the prisoner's last known address within the time periods set forth in Paragraph CC. If the funds are subsequently returned as undeliverable, an account shall be opened in the prisoner's name to retain the funds for one year; after that time, the funds shall be forwarded to the Unclaimed Property Division of the Department of Treasury.

#### DISPOSITION OF ACCOUNTS UPON ESCAPE OR DEATH

- KK. Accounts of escapees who have not been apprehended shall remain open for one year. After that time, all funds in the account shall be forwarded to the Unclaimed Property Division of the Department of Treasury.
- LL. If a prisoner dies and the account does not exceed \$500, the funds may be delivered to a person providing identification and an affidavit that s/he is the spouse, child or parent of the prisoner and that there is no application or petition pending for administration of the prisoner's estate. If the prisoner's account exceeds \$500, the funds shall only be released with proper court documentation. Savings bonds in the prisoner's name being stored for the prisoner shall be included unless another individual is identified on the bond as the beneficiary. In such cases, the Administrative Officer shall make a reasonable effort to locate the beneficiary and forward the savings bond. All funds, including bonds, unclaimed after one year, shall be forwarded to the Unclaimed Property Division of the Department of Treasury.
- MM. Any remaining institutional debt shall be deemed uncollectible, and all holders and debts removed, upon a prisoner's death or two years after discharge on the maximum sentence, discharge from parole, or escape, unless the prisoner is returned to the Department's custody. However, whenever the prisoner's institutional debts total \$100 or more they shall be referred to the Department of Treasury for collection, unless the prisoner is deceased. The Department of Treasury shall be notified if funds are received subsequent to that referral.

#### OPERATING PROCEDURES

- NN. Each Warden shall ensure that procedures are developed as necessary to implement requirements set



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forth in this policy directive; this shall be completed within 60 calendar days after the effective date of the policy directive. This requirement includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed. Facility procedures shall not conflict with procedures issued by the Director or Deputy Director.

#### AUDIT ELEMENTS

- OO. A Primary Audit Elements List has been developed and will be provided to Wardens to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

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